

Message Text

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PAGE 01 STATE 087379

11

ORIGIN EB-11

INFO OCT-01 EUR-25 IO-12 ADP-00 AGR-20 CEA-02 CIAE-00

COME-00 DODE-00 FRB-02 H-02 INR-10 INT-08 L-03 LAB-06

NSAE-00 NSC-10 PA-03 RSC-01 AID-20 CIEP-02 SS-15

STR-08 TAR-02 TRSE-00 USIA-12 PRS-01 OMB-01 /177 R

DRAFTED BY EB/ ITP: JCRENNER: MEH

5/8/73 EXT 22533

APPROVED BY EB/ ITP: JCRENNER

STR- AMB. MALMGREN

COMMERCE- MR. ABBUHL

TREASURY- MR. MCFADDEN

AGRICULTURE- MR. GOODMAN

LABOR- MR. BLACKMAN

EUR/ RPE- MR. MEIMA

----- 012054

R 082137 Z MAY 73

FM SECSTATE WASHDC

TO USMISSION OECD PARIS

INFO USMISSION GENEVA

ALL OECD CAPITALS

UNCLAS STATE 087379

E. O. 11652: N/ A

TAGS: ETRD

SUBJECT: NTB PAPER

FOLLOWING THE RECENT PRESENTATION ON NTBS BY THE US
REPRESENTATIVE TO THE OECD TRADE COMMITTEE, A NUMBER OF
OTHER DELEGATIONS AND THE SECRETARIAT ASKED THE US TO
SUBMIT A PAPER ON NTBS. IN RESPONSE, THE MISSION IS
REQUESTED TO SUBMIT THE FOLLOWING:

NON- TARIFF BARRIERS

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SUBMISSION BY THE REPRESENTATIVE OF THE UNITED STATES
TO THE
OECD TRADE COMMITTEE

1. IN 1967, THE GATT UNDERTOOK A COMPREHENSIVE EXAMINATION OF NON- TARIFF BARRIERS TO INTERNATIONAL TRADE. THIS STUDY RESULTED IN A LIST OF OVER 800 POLICIES AND PRACTICES OF GOVERNMENTS WHICH OTHER GOVERNMENTS REGARDED AS NON- TARIFF BARRIERS.

2. NON- TARIFF BARRIERS CAN BE DIVIDED INTO TWO BASIC TYPES: (A) TRADE- DIRECTED NTBS WHOSE PURPOSE IS TO RESTRICT TRADE; (B) TRADE- INCIDENTAL NTBS WHOSE IMPACT ON TRADE ARISES FROM MEASURES DESIGNED TO ATTAIN OTHER OBJECTIVES.

3. MANY OF THE TRADE- DIRECTED NTBS WILL BE DEALT WITH IN THE UPCOMING MULTILATERAL TRADE NEGOTIATIONS. IN THESE NEGOTIATIONS OUR COMMON PURPOSE SHOULD BE TO ELIMINATE, REDUCE, OR HARMONIZE TRADE- DIRECTED NTBS.

4. IN THIS PROCESS, MANY TECHNIQUES WILL BE EXAMINED AND A VARIETY WILL BE USED. ONE THAT HAS SPECIAL MERIT, IN THE VIEW OF THE UNITED STATES, IS THE CONVERSION OF CERTAIN TRADE- DIRECTED NTBS TO AD VALOREM EQUIVALENTS. HOPEFULLY THESE TARIFFS THEN WOULD BE REDUCED IN THE PROCESS OF THE TARIFF NEGOTIATIONS. IF NOT, AT LEAST SOME ELEMENT OF COMPETITION WOULD HAVE BEEN INTRODUCED.

5. THE TRADE- INCIDENTAL NTBS WILL BE MORE DIFFICULT TO DEAL WITH IN THE MULTILATERAL TRADE NEGOTIATIONS. NONETHELESS, WE NEED TO FIND MEANS TO SEPARATE OUT AND MODERATE THE TRADE EFFECTS OF THESE MEASURES.

6. IT MAY BE POSSIBLE TO DEVELOP A SET OF PRINCIPLES THAT WOULD HELP LIMIT AND CONTROL THE IMPACT ON INTERNATIONAL TRADE OF TRADE- INCIDENTAL NTBS. IN THE JUDGMENT OF THE UNITED STATES, THE OECD TRADE COMMITTEE IS ESPECIALLY QUALIFIED TO INITIATE EXPLORATION OF THIS MATTER.

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7. TO FACILITATE THE TRADE COMMITTEE'S CONSIDERATION OF TRADE- INCIDENTAL NTBS, THE UNITED STATES PUTS FORWARD SOME PRELIMINARY IDEAS.

8. TRADE- INCIDENTAL NTBS DIFFER WIDELY IN PURPOSE, CONTENT, AND EFFECT ON TRADE. THIS MEANS THAT PRINCIPLES TO REDUCE THE TRADE IMPACT OF TRADE- INCIDENTAL NTBS

WILL OFTEN NEED TO BE GENERAL IN CHARACTER AND DIRECTED AT THE OVERALL PROCEDURES AND PRACTICES OF GOVERNMENTS RATHER THAN AT THE SPECIFIC NTBS THEMSELVES.

9. APPROACHING THE PROBLEM FROM THIS PERSPECTIVE, PRINCIPLES TO LIMIT AND CONTROL THE IMPACT ON TRADE OF TRADE- INCIDENTAL NTBS MIGHT INCLUDE THE FOLLOWING ELEMENTS:

NATIONAL TREATMENT

10. THE MOST IMPORTANT PRINCIPLE IS THAT REQUIREMENTS AND PROCEDURES SHOULD APPLY WITH NO GREATER SEVERITY TO FOREIGN SUPPLIERS THAN TO DOMESTIC SUPPLIERS. THIS PRINCIPLE WOULD OFTEN BE IMPLEMENTED BY APPLYING THE SAME REQUIREMENTS AND PROCEDURES TO DOMESTIC AND FOREIGN SUPPLIERS. BUT SOMETIMES THIS WOULD BE UNFAIR EITHER TO FOREIGN OR DOMESTIC SUPPLIERS. IN THIS CASE, DIFFERENT BUT COMPARABLE REQUIREMENTS AND PROCEDURES WOULD BE APPLIED TO FOREIGN SUPPLIERS SO THAT THE EFFECTS WOULD BE THE SAME ALTHOUGH THE REQUIREMENTS MIGHT BE DIFFERENT.

EQUALITY OF ACCESS TO REMEDY

11. FOREIGN SUPPLIERS SHOULD HAVE THE SAME RIGHTS TO ADMINISTRATIVE AND JUDICIAL REVIEW AS DOMESTIC SUPPLIERS.

PUBLICATION

12. PROPOSED LAWS, REGULATIONS, AND PROCEDURES PERTAINING TO CONTEMPLATED GOVERNMENTAL ACTIONS OR REQUIREMENTS THAT MAY HAVE AN IMPACT ON TRADE SHOULD BE PUBLISHED AND MADE EASILY AVAILABLE. LACK OF INFORMATION ITSELF WOULD NOT THEN CONSTITUTE A BARRIER TO TRADE.

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PRIOR CONSULTATION

13. PUBLICATION OF THE CONTEMPLATED ACTION SHOULD TAKE PLACE SUFFICIENTLY FAR IN ADVANCE OF THE PLANNED ACTION TO ENABLE PRIVATE ENTITIES TO COMMENT AND SUGGEST CHANGES.

14. IF A GOVERNMENT CONSIDERS THAT THE PROPOSED MEASURE IS LIKELY TO HAVE AN ADVERSE IMPACT ON ITS TRADE, IT WILL HAVE THE RIGHT TO CONSULT WITH THE GOVERNMENT CONTEMPLATING THE MEASURE AND TO REQUEST CHANGES. SUCH CONSULTATION SHOULD TAKE PLACE BEFORE THE PROPOSED MEASURE IS PUT INTO EFFECT.

UNIFORMITY AND PREDICTABILITY

15. TO ENSURE THAT REGULATIONS AND PROCEDURES ARE APPLIED
UNIFORMLY TO DOMESTIC AND FOREIGN SUPPLIERS AND THAT THE
EFFECT OF GOVERNMENTAL REQUIREMENTS IS PREDICTABLE,
DECISIONS SHOULD BE BASED AS MUCH AS POSSIBLE ON KNOWN
OBJECTIVE CRITERIA AND AS LITTLE AS POSSIBLE ON ADMINIS-
TRATIVE DISCRETION.

SIMPLIFICATION

16. TO AVOID EXCESSIVE EXPENDITURE OF TIME OR MONEY,
WHICH MAY BE ESPECIALLY ONEROUS FOR A FOREIGN SUPPLIER,
REGULATIONS SHOULD BE STRAIGHT FORWARD AND PROCEDURES
SHOULD BE EASY TO FOLLOW.

MULTILATERAL REVIEW

17. IF A GOVERNMENT CONSIDERS THAT ANOTHER GOVERNMENT
HAS VIOLATED THE AGREED PRINCIPLES AND IF IT CONSIDERS
THAT ITS TRADE IS LIKELY TO BE INJURED, IT MAY REQUEST
THAT THE MATTER BE REVIEWED MULTILATERALLY. ROGERS

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*** Current Handling Restrictions *** n/a
*** Current Classification *** UNCLASSIFIED
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*** Current Handling Restrictions *** n/a

*** Current Classification *** UNCLASSIFIED

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Decaption Note:
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Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
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